



**CONESTOGA-ROVERS
& ASSOCIATES**

US EPA RECORDS CENTRAL REGION 5



505828

651 Colby Drive, Waterloo, Ontario, Canada N2V 1C2
Telephone (519) 884-0510 Facsimile: (519) 884-0525
www CRAworld.com

September 30, 2011

Reference No. 038443-89

Ms. Karen Cibulskis
Remedial Project Manager
United States Environmental Protection Agency
Region V
77 West Jackson Boulevard
Mail Code SR-6J
Chicago, IL 60604

Dear Ms. Cibulskis:

Re: Response to United States Environmental Protection Agency (USEPA) Decision to
Unilaterally Modify the Streamlined Remedial Investigation and Feasibility Study for
Operable Unit One (OU1 RI/FS)
South Dayton Dump and Landfill Site Moraine, Ohio (Site)

Conestoga-Rovers & Associates (CRA) has prepared this letter on behalf of the participating Respondents to the Administrative Settlement Agreement and Order on Consent (ASAOC) for Remedial Investigation/Feasibility Study (RI/FS) of the Site, Docket No. V-W-06-C-852 (Respondents)¹. This letter responds to USEPA's decision to unilaterally modify the OU1 RI/FS in accordance with Paragraph 42 of the ASAOC.

Respondents worked with USEPA in good faith to prepare the OU1 RI/FS and made every effort to prepare an approvable document in accordance with appropriate guidance, including the 1988 EPA document entitled "Guidance for Conducting Remedial Investigations/Feasibility Studies Under CERCLA, Interim Final" (RI/FS Guidance), while incorporating USEPA's comments and concerns. While the Respondents acknowledge that, as is typical with a streamlined RI/FS, some data gaps and uncertainties remain, the Respondents have made every reasonable effort to meet USEPA expectations.

After the Respondents and USEPA signed the December 15, 2010 Dispute Resolution Agreement, the Respondents submitted the OU1 Streamlined RI/FS (Streamlined RI/FS) Report on January 31, 2011. The Respondents re-submitted the Streamlined RI/FS on June 10, 2011 following receipt of USEPA's draft May 10, 2011 comments and what the Respondents believed was the resolution of the substantive comments through six conference calls and web meetings held in March and April 2011. Details relating to the conference calls and web

¹ Site owners Grillo and Boesch, also signatories to the ASAOC, made a contribution toward investigative cost, but are not participating further financially under an agreement with the remaining performing parties and USEPA



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meeting and the failure of USEPA to recognize the conclusions of those conference calls and web meetings in the subsequent comments received are provided in the body of this letter.

On August 8, 2011, USEPA issued 66 comments on the June 10, 2011 revised Streamlined RI/FS Report. The majority of the USEPA's August 8, 2011 comments state the original comment was "addressed as directed" or "revision is acceptable". The remainder of the comments:

(i) requested details more appropriate for remedial design (RD) than a RI/FS; (ii) instructed Respondents to re-evaluate alternatives according to unsupported assumptions; (iii) were not substantive or relevant to the purpose and intent of a RI/FS; or (iv) requested additional details or minor text changes that were not specified in USEPA's original comments.

The intent of several of USEPA's comments appear to be to revise the RI/FS to limit the objective evaluation of the options and, apparently to unrealistically portray Alternative 3 (solid waste cap) as superior to Alternative 2 (MatCon™ cap).

The Respondents asked to meet with USEPA to clarify its August 8, 2011 comments on the revised Streamlined RI/FS Report for OU1 to permit the Respondents to understand and fully respond. USEPA informed the Respondents in an August 24, 2011 meeting of USEPA's decision to unilaterally modify the OU1 RI/FS. USEPA reiterated its intent in a letter dated September 12, 2011.

As evident from documents obtained through a Freedom of Information Act (FOIA) request and USEPA statements made during the August 24, 2011 meeting, which significantly differ from written comments, USEPA's intentions were not reasonably reflected in its comments on the OU1 RI/FS, or in its communications prior to the August 24, 2011 meeting. It is now clear that the written comments did not reflect USEPA's intent.

The Respondents believe there are three main areas where USEPA impeded the ability of the Respondents to address USEPA's concerns by failing to communicate in a manner consistent with the scope and requirements of the OU1 RI/FS, and in compliance with relevant guidance and regulations.

These three areas are as follows:

- General Miscommunication
- Expectations for RD Details in the RI/FS
- Pre-determined USEPA Conclusions



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Each round of USEPA comments expanded upon the prior round, and often added new areas of concern, taking the streamlined OU1 RI/FS from its typical form to one that incorporated significant elements of a RD document. The Respondents have other concerns (including cost estimates) that are discussed and explained in the Respondent's responses to USEPA comments dated September 29, 2011 which are provided under separate cover.

1.0 GENERAL MISCOMMUNICATION

The Respondents submitted the original OU1 RI and FS Reports on April 30, and May 14, 2010, respectively, as separate documents. To date, USEPA has not issued any comments on the content of the 2010 RI Report. On July 7, 2010, USEPA issued 131 comments on the FS. However, as indicated in an electronic mail (email) message between Karen Cibulskis of USEPA and Tom Campbell of Ecology and Environment (E&E) obtained through a FOIA request, it is apparent that USEPA did not provide a complete set of comments on the original FS and intended to provide a full set of comments following submission of a revised version. USEPA did not inform Respondents that the initial 131 comments were not the entirety of its comments and it intended to address other aspects of the document in the future. In an email dated June 8, 2010, Karen Cibulskis states: *"I'm only looking for major defects in the FS and will save CH2M's full review for the revised FS."* In a subsequent email dated June 29, 2010, Karen Cibulskis states: *"I will need your comments by COB July 6. If that doesn't work for you, that's ok too. We'll just reserve the right to comment on the next submission."* It is clear based on this correspondence that USEPA never intended to approve the Respondents' revised FS without an additional round of comments and revisions. Copies of these emails are provided in Attachment A.

On October 15, 2010, the Respondents formally invoked the Dispute Resolution process² in an attempt to resolve issues related to the final scope and boundaries of the OU1 RI/FS. The Respondents met with USEPA and Ohio EPA on November 2, 2010, to discuss and resolve these issues. The Respondents and USEPA reached a tentative agreement on the identified issues at the November 2, 2010 meeting and finalized the agreement in a Dispute Resolution Agreement, dated December 15, 2010.

The Respondents submitted the Streamlined RI/FS on January 31, 2011, which was a single document, comprised of information from both the original RI and FS Reports, and incorporated USEPA's requested July 7, 2010 revisions. As the USEPA had, by its own admission, not fully commented on the previous version of the OU1 RI/FS, the Streamlined RI/FS submitted in January 2011 was, in essence, an interim submission, although USEPA did not inform the Respondents that this was the case.

² As described in Section XV, paragraphs 62 through 64 of the ASAO.



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Over a series of six conference calls and web meetings between March 14, and April 11, 2011, USEPA expressed concern with elements of the OU1 RI/FS, and USEPA and the Respondents agreed to several revisions. The participants in these conference calls discussed the USEPA's concerns (including intent), and agreed on revised text in many instances using a web meeting to review the actual changes to be made and to agree on specific wording.

On May 10, 2011, USEPA issued a letter with an additional 187 comments on the OU1 RI/FS (these comments had largely been provided to the Respondents in draft form in March and April 2011). USEPA did not incorporate any of the changes agreed upon during the March and April 2011 conference calls into the final comments. During a telephone call between Adam Loney of CRA and Karen Cibulskis of USEPA on May 17, 2011, when asked why the agreed changes had not been incorporated, Ms. Cibulskis stated that this was due to time constraints but that USEPA still agreed with the changes. The Respondents substantially revised the OU1 RI/FS to incorporate USEPA's comments and submitted a revised version on June 10, 2011. Revisions incorporated by the Respondents included 62 pages of additional detail (increasing the text of the OU1 RI/FS from 101 pages to 163 pages), as well as figures, tables, and appendices. The Respondents made these significant changes in direct response to specific comments and USEPA requests.

On August 8, 2011, USEPA issued a letter on the revised OU1 RI/FS, stating its position that 66 comments had not been resolved to USEPA's satisfaction. Despite this position, twenty-five of the 66 comments were prefaced with the statements "Addressed as directed", indicated "revision is acceptable", or did not provide further direction or revisions (e.g., Comment Nos. 70 and 117). An additional seven of the 66 comments indicated the Respondents addressed the original comment; however, USEPA identified further issues with the revised text. The remainder of the comments indicated the original comments were not addressed to USEPA's satisfaction. The remainder of the 66 comments fell into four categories: (i) requested details more appropriate for RD than a RI/FS; (ii) instructed Respondents to reevaluate alternatives according to assumptions that are not supported by proposed, yet-to-be-completed investigations; (iii) were not substantive or relevant to the purpose and intent of an RI/FS (e.g., Comment Nos. 78 and 96); and (iv) requested additional details or minor changes not specified in USEPA's original comments (e.g., Comment Nos. 13, 29, 30, 60, and 150).

As stated in USEPA's email dated August 8, 2011 transmitting the comments, and as the Respondents understood, USEPA intended to discuss the "outstanding comments with the Respondents, or at least some of the more major ones, to see if we can figure out what happened, before we decide how to proceed at this point." The Respondents understood this communication as an expression of USEPA's good faith intention to resolve outstanding issues and that there would be opportunity to discuss USEPA's concerns regarding the RI/FS.



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On August 11, 2011, Respondents agreed to incorporate 30 of 66 USEPA comments into a revised version of the OU1 RI/FS, and requested a meeting to clarify the following four general issues and concerns related to the scope of the FS portion of the OU1 RI/FS: i) cap design, configurations, and FS details; ii) landfill gas and soil vapor; iii) storm water; and iv) cost estimates, including business relocation costs. On August 12, 2011, USEPA confirmed its availability for a meeting with Respondents.

On August 19, 2011, the Respondents agreed to incorporate an additional 16 of 66 comments into a revised version of the OU1 RI/FS³. The Respondents believed that the remaining 20 of 66 USEPA's August 8, 2011 comments, had more significant implications with respect to the scope and direction of the OU1 RI/FS, and hence warranted further discussion.

Rather than discuss how to incorporate 20 comments into the OU1 RI/FS, as USEPA had stated in the August 8, 2011 email message, USEPA opened the August 24, 2011 meeting by notifying the Respondents of its intent to unilaterally modify the OU1 RI/FS. This unexpected announcement was inconsistent with USEPA's email and telephone communications leading up to the meeting that indicated a willingness by USEPA to discuss the comments and the path forward to finalize the OU1 RI/FS.

At the meeting, Respondents and USEPA discussed several USEPA comments, including those regarding evaluation of MatCon™, storm water management details, and landfill gas (LFG). In response to the issues raised, USEPA offered explanations regarding a number of the comments that differed significantly from its written comments. Examples of USEPA comments discussed by Respondents and USEPA during the August 24, 2011 meeting are presented below.

With respect to additional USEPA concerns regarding the Respondents' evaluation of the MatCon™ Cap (e.g., Comment Nos. 150 and 153), USEPA comments appear to reduce the implementability rating of the MatCon™ Cap by suggesting that special construction techniques are required and overstating the short-term construction risks as well as raising issues regarding its long-term reliability. USEPA has evaluated and used MatCon™ at other sites (USEPA, 2003, EPA/540/R-03/505). Although the materials and labor for the proprietary portions of the cap must be sole-sourced, these are not factors that would restrict or inhibit the ability to construct and maintain a remedy using this approach. MatCon™ is the binding agent (which provides a longer lifespan than conventional asphalt) and is added to hot mix asphalt prior to use. Given the presence of an on-Site asphalt plant (Valley Asphalt), hot mix asphalt is readily available. MatCon™ has been implemented on several sites as part of the Superfund Innovative Technology Evaluation (SITE) Program. It is not reasonable to assume that, in 30 years, asphalt technology of equal or greater performance would not be available. Further,

³ Thus the Respondents had agreed to incorporate 46 of USEPA's 66 comments



the use of MatCon™ has not given rise to any technically more challenging or expensive oversight and maintenance issues. Moreover, MatCon™ patents will expire long before this 30 year horizon and the technology will be in the public domain. Simply stated, USEPA's comments and concerns regarding MatCon™ have no technical basis, and thus, in many cases, it is impossible to provide an acceptable response to comments (e.g., Comment No. 169(e)).

The Respondents revised the text of the OU1 RI/FS to clearly describe the additional requirements of constructing a MatCon™ Cap. However, the Respondents maintain these additional requirements do not present significant additional risks. USEPA made it clear based in its response to this issue raised at the meeting that the written comments do not reflect USEPA's actual concerns and that the level of detail requested by USEPA in its comments was not actually necessary. For example, when the Respondents asked USEPA about the conclusions in the comments about the solid waste cap being significantly more protective as a result of a hypothetical exposure to LFG, USEPA stated at the August 24, 2011 meeting that the remedies were either protective or not and the differences between the two alternatives identified in the comments were not actually relevant. USEPA also stated during the meeting that the barriers to implementability of the MatCon™ cap raised by USEPA were not that significant. USEPA's statements at the August meeting were inconsistent with its August 8, 2011 written comments and USEPA's decision to complete the RI/FS based on those written comments.

Respondents and USEPA also discussed the level of storm water detail required for Comment Nos. 120, 143, and 146, at the August 24, 2011 meeting. These comments are repeated here for reference.

Comment No. 120: "Include a plan view of the cap with topography and base the section drawing off the anticipated cap design. Show conceptual stormwater controls on the plan drawing but do not include features that will no longer exist following cap construction.

Conceptual drawing of the capping alternatives must be included. The drawings must also show how the various sloping options and embankments for the capping alternatives will look topographically and in cross-sections."

Comment No. 143: "Discuss storm water runoff under all alternatives and how much will be present based on modeling..."

Comment No. 146: "For the asphalt and ARARs-compliant solid waste cap remedial components, please provide additional, specific, accurate and defensible details, including cross-sections, as to what the cap will look like over the steep embankments in the GMR floodway that are comprised of landfill material, and what the cap will look like over the steep landfill material embankments of the Quarry Pond (at least on east, north and west



sides of Quarry Pond). The details must include information about what regrading is needed; whether some amount of landfill material in the GMR and Quarry Pond embankments needs to be excavated out and replaced with clean fill before being capped; and what additional measures will be needed since the landfill materials that constitute the GMR embankment are in the GMR Floodway, as well as the 100 year floodway and the 100 year floodplain, and since the Quarry Pond embankments (and other parts of the landfill) are also in the 100 year floodplain. Also, please include additional information as to how the waivers-justifiable asphalt caps would be "tied" into the ARARs-compliant solid waste cap; and how the solid waste cap over the unsubmerged landfilled materials in the Quarry Pond and unsubmerged part of the embankments of the Quarry would "tie" into the remedial components for submerged landfill materials and contaminated sediments in the Quarry Pond. Also ARARs associated with any of these issues must also be discussed..."

At the meeting on August 24, 2011, USEPA and its consultants stated that their expectations were significantly different than what is stated in the above comments. For example, with respect to Comment No. 146, USEPA and its consultants stated that a simple illustration of a hypothetical design would satisfy the comment. USEPA made it clear that design level details with respect to storm water management are not required and that a simple listing of potential storm water management alternatives and the addition of flow lines to a conceptual drawing would suffice. This is contradictory to USEPA's written comments that require "additional, specific, accurate and defensible details", "a plan view of the cap with topography and [the Respondents to] base the section drawing off the anticipated cap design" and show "stormwater controls on the plan", and other comments that require detailed modeling.

As evident from FOIA documents and USEPA statements made during the August 24, 2011 meeting, which significantly differ from written comments, USEPA's intentions were not reasonably reflected in its comments on the OU1 RI/FS, or in the email concerning the agenda of the August 24, 2011 meeting. It is not clear how any response to these comments could have been adequate when the written comments failed to reflect USEPA's intent.

2.0 OU1 RI/FS AND DESIGN DETAILS

The Respondents understand USEPA's most substantial concerns to be related to the level of detail to be included in the RI/FS. As per our understanding of the RI/FS Guidance, the Respondents completed the RI/FS process and prepared the OU1 RI/FS in accordance with Section 1.3 of the RI/FS Guidance:

The objective of the RI/FS process is not the unobtainable goal of removing all uncertainty, but rather to gather information sufficient to support an informed risk



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management decision regarding which remedy appears to be most appropriate for a given site.

Additional clarification is provided in Section 4.3.1.2 of the RI/FS Guidance (EPA, 1988):

Alternatives should be defined to provide sufficient quantitative information to allow differentiation among alternatives with respect to effectiveness, implementability, and cost. Parameters that often require additional refinement include the extent or volume of contaminated material and the size of major technology and process options.

Section 6.1.1 of the RI/FS Guidance (EPA, 1988) states:

The results of this assessment are arrayed to compare the alternatives and identify the key tradeoffs among them. This approach to analyzing alternatives is designed to provide decision makers with sufficient information to adequately compare the alternatives, select an appropriate remedy for a site, and demonstrate satisfaction of the CERCLA remedy selection requirements in the ROD.

The OU1 RI/FS includes a sufficient level of detail regarding each of the alternatives (including cap construction) to support an informed risk management decision regarding which remedy appears to be most appropriate for the Site. While the Respondents acknowledge that, as in most RI/FS Reports, data gaps exist with respect to specific remedial processes, the Respondents discussed these data gaps with USEPA prior to submission of the OU1 RI/FS and the existence of these data gaps should not inhibit USEPA from selecting the most appropriate remedy. In fact, the data gaps will remain in USEPA's OU1 RI/FS. The following paragraphs present details with reference to specific comments, where USEPA's required revisions go beyond the typical requirements of a RI/FS.

In Comment Nos. 136 and 139, USEPA requires the Respondents to provide design details as opposed to FS-level detail, with respect to the MatCon™ cap, include the following:

Comment 136: State what load limits the MatCon cap will be subjected to based on the anticipated traffic and state that this will be calculated again and finalized during the design phase along with other design parameters required for obtaining the MatCon warranty. What is the maximum load that MatCon can be built to withstand due to the loads at Valley Asphalt? Describe how Valley Asphalt will be required to operate their equipment and pile height to meet the restrictions that will [sic] placed on them to protect the cap. B&G Trucking and Barnett Construction can also have heavy equipment traffic.

Comment 139: "Discuss how the asphalt cap will tie into Dryden Road to prevent LFG from traveling through road base materials and the backfill of utility trenches."



In response to Comment No. 136, the Respondents provided additional text in the report stating contingency measures may be implemented to ensure business operations would not affect the MatCon™ cap remedy. Respondents detailed contingency measures such as institutional controls; increased cap thickness; or a combination of a MatCon™ cap with conventional asphalt.

In response to Comment No. 139, the Respondents had previously indicated that MatCon™ could readily tie a MatCon™ Cap to a SW Cap and provided a conceptual discussion to support this. This discussion was directly based on information presented on the MatCon™ website, which discusses this issue and clearly states that MatCon™ can join to a SW cap "without special anchors." In the August 8, 2011 Comment No. 147(o), USEPA went on to state:

Remove the following sentence in Section 4.2.2, page 133, last paragraph, "However, the techniques required for the installation of a MatCon cap are not technically challenging or especially onerous." This is not known to be true since details of the SW and MatCon cap tie-in can't be provided due to proprietary reasons. It is not known if installation will be technically challenging or onerous."

The revision requires information that extends beyond what is typically required for a FS and the report provided sufficient information to support remedy selection.

Further, the requested revision is at odds with USEPA's 2003 SITE Report, in which USEPA states that "the technology is readily implementable since hot mix plants are available in all parts of the country. Standard, readily available paving equipment can be used." Further USEPA notes that :

the ease of implementation is an attractive feature of the MatCon™ technology. The proprietary binder is shipped to the hot mix asphalt plant nearest the site, and the mix is prepared under [MatCon™] supervision. Paving equipment available from local paving contractors can be used to install the MatCon™ cover in a few weeks.

The Respondents demonstrated a willingness to revise the minor wording concerns as requested, and to discuss the more substantial components of USEPA's Comment No. 147 to agree upon wording (including Comment 147(o)) during the August 24, 2011 meeting; however, USEPA did not provide the Respondents the opportunity to do so.

In response to USEPA Comment No. 120 related to storm water, the Respondents provided conceptual cross sections of the capping alternatives (Figure 3.1), aerial overviews of the capped locations (Figures 3.2 and 3.3), a conceptual cross section of the cap over the embankment



(Figure 2.1) and a conceptual cross section of the cap showing drainage (Figure 2.2). The Respondents stated that these are for conceptual purposes, and that actual design of the cap over the embankment and drainage would be determined during RD. USEPA responded with the following statement: *"Not addressed and unacceptable. The included figures do not realistically show what a final cap will look like."* It was not the Respondents' intention to show exactly what a final cap would look like since that is not a function of an RI/FS. Furthermore, to do this accurately, CRA would have needed to complete detailed modeling and design work that is part of the RD process and not appropriate for an RI/FS. Detailed modeling required to determine the final cap design consists of several calculations and tasks that will be completed during RD.

At the August 24, 2011 meeting, USEPA provided figures from three other RI/FS or equivalent reports (two of which were from CRA reports) to demonstrate the level of detail they were looking for. The figures are conceptual drawings similar to those provided by the Respondents in the OU1 RI/FS and, with the exception of flow lines on one of the figures, do not differ markedly from the figures in the OU1 RI/FS. The level of detail in the figures USEPA provided to the Respondents is significantly less than required by USEPA's comments.

The level of detail requested in USEPA's comments is applicable for RD and is well beyond the conceptual requirements of the RI/FS. This is supported by an email message obtained from the FOIA responses. A copy of this email is provided in Attachment A. In an email dated July 6, 2010, Thomas Campbell of E&E (USEPA's contractor) states to Karen Cibulskis *"I think the issues related to capping will be addressed in the design portion."*

The Respondents believe the OU1 RI/FS included sufficient detail and "quantitative information to allow differentiation among alternatives with respect to effectiveness, implementability, and cost", consistent with the RI/FS Guidance. Information necessary to support the approval of a RD is not required in a FS and, as such details will likely change during detailed design, the provision of such information is an unnecessary expense and will lead to public confusion, when changes occur between the RI/FS and RD/RA phases.

3.0 PRE-DETERMINED USEPA CONCLUSIONS

As discussed previously, the Respondents submitted a FOIA request. The documents obtained through that request show that USEPA did not intend to provide a complete set of comments on the original FS Report. USEPA did not inform Respondents of its intent. They also show a narrow focus on the RI/FS information with pre-determined conclusions. Copies of some of the relevant documents are provided in Attachment A.



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In an email dated June 8, 2010, Karen Cibulskis states: *"I'm only looking for major defects in the FS and will save CH2M's full review for the revised FS."* In a subsequent email dated June 29, 2010, Karen Cibulskis states: *"I will need your comments by COB July 6. If that doesn't work for you, that's ok too. We'll just reserve the right to comment on the next submission."*

It is clear based on these emails that USEPA never intended to approve the Respondents' revised FS without an additional round of comments and revisions. The Respondents do not understand how USEPA could expect its concerns to be addressed through completion of an approvable OU1 RI/FS when specific comments and concerns were withheld during the original review.

USEPA directed CH2M Hill and Ohio EPA to focus on particular aspects of the OU1 RI/FS and what position to argue. In one email dated February 17, 2010, Karen Cibulskis stated:

I will mostly need Luanne and Dave to be prepared to discuss EPA's letter in terms of SDDL being the source of the chlorinated solvents along Dryden Road and the benzene in VAS-21/VAS-21B and MW-210B based on whatever flow maps we have ... and given the concentrations of chlorinated solvents and benzene in the Valley Asphalt drums; CRA drum from TT-21 over RCRA TCLP limit for benzene; solvents and benzene in landfilled materials above even non-conservative soil levels for groundwater protection across the site; solvents and benzene in high soil gas concentrations across the site; a comparison of solvents in VAS-14/MW-216 concentrations at SDDL compared to VAS-27/MW-211 at DPL; and a comparison of solvents and benzene in VAS-21/VAS-21B and MW-210/MW-210A/MW-210B compared to VAS-26/MW-220 and the existing [sic] DPL wells in the VAS-26/MW-220 area.

CH2M Hill's emails to USEPA dated February 3, and 5, 2010, indicate that the evaluation of the OU1 RI/FS focused on limited topics raised by USEPA: *"We crafted our response to the 3 main questions you asked in your original email"*, and *"We adhered to answering the main questions you originally emailed to us, and added considerations for how the project could move forward given the current circumstances."*

Several of USEPA's comments (e.g., Comment Nos. 147(m,n,o), 153, 163, 164, 168(c), and 169(e)) indicate USEPA: (i) pre-supposed exposure risks from landfill gas and soil vapor that are not supported by any investigation results; and (ii) requested changes to the comparison rankings of alternatives which results in (iii) an apparent intent to demonstrate that Alternative 2 (MatCon™ Cap) presents a greater risk than Alternative 3 (SW Cap).



For example, USEPA's Comment No. 163 states: *"The fact that Alternative 3 will have no permanent on-site receptors make control of LFG and soil vapor much more protective of human health. See next comment for additional details."* (Emphasis added) USEPA Comment No. 164[2](h) states: *"both caps are not rated high. While both caps contain the same residual waste, one cap has buildings and workers located on its surface that puts workers in closer proximity to LFG and sub-slab vent emissions."* USEPA overstates the risks and appears to reveal an intent to demonstrate that Alternative 2 (MatCon™ Cap) presents a much greater risk than Alternative 3 (SW Cap) with respect to exposure to landfill gas and soil vapor. These comments are without basis as the proposed VI Study has not yet been completed, nor have the necessary pre-design studies to confirm the risk to current receptors. The Respondents do not believe the exposure issues identified in the comments are significant or material to remedy selection. Additionally, we know from experience that businesses can be located on top of Superfund sites and remedies can be designed to be protective of workers at those businesses.

The Respondents raised the issue of evaluation of alternatives at our meeting with USEPA on August 24, 2011. USEPA made it clear based on its verbal response to the issues raised at the meeting that its comments were not intended to overstate the risks of a MatCon™ Cap (Alternative 2). However, this is contradicted by USEPA's written comments and directions. USEPA appears to reveal an intent to revise the RI/FS to limit the objective evaluation of the options and, apparently to unrealistically portray Alternative 3 as superior to Alternative 2.

The Respondents had been willing to revisit the costs of the remedies and revise as appropriate; however, USEPA did not provide the Respondents with an opportunity to do so.

CONCLUSION

The Respondents prepared the OU1 RI/FS in accordance with RI/FS Guidance, working with USEPA in good faith to complete the OU1 RI/FS in accordance with the ASAO and applicable guidance. The Respondents understand that, as USEPA has elected to unilaterally modify the OU1 RI/FS, the resulting document will be a USEPA document.

On August 29, 2011, CRA provided USEPA with the files comprising the OU1 RI/FS Report in Microsoft® (MS) Word®, MS Excel®, and AutoCAD® format to assist USEPA its revisions and finalizing of the OU1 RI/FS. Subsequently, CRA has provided USEPA with the HELP and landfill gas modeling files. The Respondents will continue to provide additional information to USEPA as requested, and will continue to cooperate with USEPA to ensure completion of the OU1 RI/FS. As discussed during the August 24, 2011 meeting, the Respondents request that



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USEPA allow the Respondents a reasonable opportunity to review USEPA's OU1 RI/FS to ensure a fair and unbiased evaluation of alternatives.

Based on USEPA's oral responses given at the August 24, 2011 meeting, the Respondents have directed CRA to prepare further information for USEPA's use. This information includes the files and supporting data used to prepare the OU1 RI/FS, and other relevant information requested by USEPA to finalize the OU1 RI/FS. We would appreciate the opportunity to discuss USEPA's additional needs so that we can respond in a proper and timely manner.

Should you have any questions on the above, please do not hesitate to contact us.

Yours truly,

CONESTOGA-ROVERS & ASSOCIATES

Stephen M. Quigley

DS/ca/116

Encl.

cc: Tim Prendiville, USEPA
Laura Marshall, Ohio EPA
Robert Frank, CH2M Hill
Scott Blackhurst, Kelsey Hayes Company
Wray Blattner, Thompson Hine
Ken Brown, ITW
Bryan Heath, NCR

Paul Jack, Castle Bay
Robin Lunn, Winston & Strawn
Edward Gallagher, NCR
Karen Mignone, Verrill Dana
Jim Campbell, EMI
Tim Hoffman, Dinsmore & Shohl
Adam Loney, CRA

ATTACHMENT A

**REFERENCED EMAILS OBTAINED THROUGH
FREEDOM OF INFORMATION ACT (FOIA) REQUEST**

SDDL

Karen Cibulskis to: brett fishwild

06/08/2010 12:34 PM

Sorry - still trying to get done what I can on FS and will transmit to you by end of day whatever I have for Tom Campbell to start looking at for major comments on all alternatives, and Dave as much as he needs to for major comments on shallow groundwater alternatives. I'm only looking for major defects in FS, and will save CH2M's full review for the revised FS.

Alternatives will need to be re-written anyway, so I just want to know if there are some major components or analyses or ARARs or something the PRPs left out and would just leave out again unless we tell them. For example, I don't think there is any or adequate discussion of capping along the GMR riverbank and other steep slopes, or capping over Large and Small Ponds that rise and fall with water table. I'll try to note some concerns if I can.

Karen.



RE: FS
Campbell, Thomas to: Karen Cibulskis
Cc: brett.fishwild

07/06/2010 04:57 PM

History: This message has been replied to.

Karen,

I think that we will need to address a lot of additional comments during the next submission, but after reading through the FS again, I decided to focus on table 2.4 which addresses comments that I have about their chosen remedial technologies and lack of environmental media addressed (onsite groundwater, onsite indoor air, onsite sediment). I also reviewed the ARARs list. The attached document has my comments for this round. See some answers below.

Hopefully by addressing the quarry pond in comments for table 2.4, CRA will include more options than just fill and cap and do nothing.

I think the issues related to capping will be addressed in the design portion. They will need to address rising water and excavating material from around the buildings in order to get a cap installed. There is also work to do around the buildings to incorporate them into the cap and vent around them.

I suspect that they do not anticipate continuing the cap beyond the OUI area and down the slopes. We should be prepared to ask these questions at the next meeting so our concerns can be incorporated into their new FS.

Tom

-----Original Message-----

From: Cibulskis.Karen@epamail.epa.gov
[mailto:Cibulskis.Karen@epamail.epa.gov]
Sent: Tuesday, June 29, 2010 2:40 PM
To: Campbell, Thomas
Cc: brett.fishwild@ch2m.com
Subject: FS

Hi Tom, in looking over FS for major, major comments, like missed ARARs, something missing from cost estimates or other major analysis missing, etc., it would also be helpful if you could provide a comment outlining other potential alternatives the PRPs could evaluate for Quarry Pond other than do nothing or fill and cap. Like isn't there some sort of cap they can install underwater? Could they excavate out the sides of the Quarry Pond (underwater too) and replace with clean fill and/or cover? Could they drive temporary (or permanent?) sheet piling around the landfill and dewater to do their construction or to help isolate fill material from groundwater?

Also - is there something more needed with capping because of the 3-7 foot rises in groundwater? Will this put extra pressure on the cap that needs to be addressed?

I will point out more discussion is needed re: side-slopes along GMR and in other areas (are there any ARARs for this?). I will also comment that they will need to do something about landfill gas, now and because of potential for increased concentrations with cap, but are there any ARARs for this I can point to?

Anything obviously missing from HELP evaluation?

Is there enough detail in their capping alternatives around buildings and how this will interface with businesses? For example, will they need to scrape off some amount of surface material around buildings so cap or asphalt doesn't build up land around buildings too high? Or how will/should this be done?

If you have any questions or want me to discuss further let me know. I will need any comments by COB Tuesday, July 6th. If this doesn't work for you that's okay too, we'll just reserve the right to comment on the next submission.

Thanks, Karen.



EPA SDDL Letter and Meeting Follow -Up

Karen Cibulskis to: vanderpool.luanne, Brett.Fishwild,
matt.justice
Cc: prediville timothy

02/17/2010 01:49 PM

Brett - Can you please forward EPA's letter and this email to Dave B. and Tom C.? Thanks.

Hi. Just as a followup to EPA's letter: As you may recall - the maps CRA has been giving us are hard to read and didn't scan well, and their data tables are also hard to read so I didn't even include them (I constructed the VOC/soil groundwater protection table using a .xls file I was able to get from CRA which was actually much easier to read once I took out all the non-detects).

But here is a list of what information I used in preparing EPA's letter, and is either from reports CRA gave us or information on their FTP. I'm going to try to start pulling everything all together on Monday, so if there's something you need a copy of let me know and I'll get it to you then.

Also - I will mostly need Luanne and Dave to be prepared to discuss EPA's letter in terms of SDDL being the source of the chlorinated solvents along Dryden Road and the benzene in VAS-21/VAS-21B and MW-210B based on whatever flow maps we have - not sure how far back we need to go or how useful CRA's flow maps without river data or more recent data points even are; and given the concentrations of chlorinated solvents and benzene in the Valley Asphalt drums; CRA drum from TT-21 over RCRA TCLP limit for benzene; solvents and benzene in landfilled materials above even non-conservative soil levels for groundwater protection across the site; solvents and benzene in high soil gas concentrations across the site; a comparison of solvents in VAS-14/MW-216 concentrations at SDDL compared to VAS-27/MW-211 at DPL; and a comparison of solvents and benzene in VAS-21/VAS-21B and MW-210/MW-210A/MW-210B compared to VAS-26/MW-220 and the existing DPL wells in the VAS-26/MW-220 area.

Source documents for EPA letter:

VAS-9, VAS-14, VAS-15, VAS-21 data in Table in Phase 1 Groundwater Report (March 2009?)

VAS-21B, VAS-26, VAS-27 and VAS-28 data from individual tables emailed by CRA in 12/09 and 01/10 to discuss final well locations.

2008 and 07/2009 MW groundwater data from Table in CRA 12/09 letter requesting reduction in analytical parameters.

VAS-9 boring log in Phase 1 Groundwater Report (maybe around page 1000 of pdf or so)

MW-215A and MW-215B boring information (near VAS-9) from CH2M Field Oversight Report

12/09-01/10 MW groundwater data, including data from MW-216, MW-210A/B; DPL MW-220, MW-221 and MW-222; and existing DPL wells from CRA's FTP, but you also need to reference CRA's Field Sampling Key (FSK) also on FTP for sample locations. I will print out data sheets and write sample locations on sheets on Monday.

Soil data and CRA's TCLP data from Figures 2-5 and Tables in CRA's 12/08 Test Pit/Test Trench Report. Soil groundwater protection criteria from EPA regional screening calculator using 10⁻⁴ cancer risk and DAF=10 (or you can just adjust it based on screening tables).

Landfill gas data from Figure 2 and Table in CRA's 12/09 Landfill Gas Report.

Groundwater flow maps from CRA's FTP and from CRA (the 12/09 and 01/10 maps) - I think everyone has

these. Additional flow maps in CRA's Phase 1 Groundwater Report but without river elevations. Not sure if river elevations included in Table.

New and existing DPL well locations shown in Figure 2 of Landfill Gas Report.

I think that's about it. Thanks! Karen.

RE: South Dayton Dump - update on FS review

Brett.Fishwild

to:

Karen Cibulskis

02/05/2010 04:40 PM

Cc:

David.Boehnker, TCCampbell

Show Details

History: This message has been replied to and forwarded.
Hello Karen,

Please find attached the CH2M HILL / Ecology and Environment review of the current site data in regards to CRA's proposed FS process. We feel this is a concise, qualitative summary of the data available to us and should help you craft a response to CRA. We adhered to answering the main questions you originally emailed to us, and added considerations for how the project could move forward given the current circumstances.

Please understand that this review was completed through assessing various separate analytical data reports that have not been evaluated (by CRA) or synthesized into a conceptual site model. We did also make use of the potentiometric maps you forwarded to us.

Please let us know if you have questions about anything in this document. I should be in all next week.

Thank you.

Brett A. Fishwild
Associate Project Manager
Geologist

CH2M HILL
1 South Main Street
Suite 1100
Dayton, OH 45402
Direct 937 220 2955
eFax 937 234 6157
Mobile 515.891.2404
www.ch2mhill.com

From: Cibulskis.Karen@epamail.epa.gov [mailto:Cibulskis.Karen@epamail.epa.gov]

Sent: Wednesday, February 03, 2010 4:14 PM

To: Fishwild, Brett/DAY

Subject: Re: South Dayton Dump - update on FS review

Thanks Brett. I'll take a quick look at it when it comes in so I can start thinking about how to incorporate your assessment into EPA's overall response when I get back on Monday. Thanks so much and I'll let you know if I have any questions or need anything else. I still haven't heard anything from CRA on the additional drilling yet.

Karen

-----<Brett.Fishwild@CH2M.com> wrote: -----

To: Karen Cibulskis/R5/USEPA/US@EPA

From: <Brett.Fishwild@CH2M.com>

Date: 02/03/2010 02:04PM

Subject: South Dayton Dump - update on FS review

Hi Karen,

I know you said you would be out until Monday, but I wanted to send this update on our review. Dave Boehnker was able to pull together a very consistent overview of the data available to us and craft a concise summary. We crafted our response to the 3 main questions you asked in your original email, but please let us know if you want any additional detail or text on anything. We are incorporating Tom Campbell's engineering perspective now and should be emailing this to you Thursday.

Thank you. Please feel free to call me (even on my cell) if you want to discuss anything.

Brett A. Fishwild.
Associate Project Manager
Geologist

CH2M HILL
1 South Main Street
Suite 1100
Dayton, OH 45402
Direct 937 220 2955
eFax 937 234 6157
Mobile 515 991.2404
www.ch2mhill.com